

# HOUSE BILL No. 1461

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-35-10.

**Synopsis:** Consent for intersex children in state custody. Provides that, except when medically necessary, a person, including a governmental entity, may not consent to allow a gender differentiation procedure for an intersex child if the child is in the custody of or under the supervision of the state. Provides that a juvenile court having jurisdiction over an intersex child may allow the intersex child to provide consent for a gender differentiation procedure if certain conditions are met. Requires that the department of child services confidentially maintain certain information on an intersex child who has received a health care service or treatment that is medically necessary. Requires an annual report.

**Effective:** July 1, 2017.

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**Clere, Ziemke, Summers**

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January 24, 2017, read first time and referred to Committee on Family, Children and Human Affairs.

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First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1461

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 16-18-2-144.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2017]: **Sec. 144.5. "Gender differentiation**  
4 **procedure", for purposes of IC 16-35-10, has the meaning set forth**  
5 **in IC 16-35-10-1.**

6       SECTION 2. IC 16-18-2-191.7 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2017]: **Sec. 191.7. "Intersex child", for**  
9 **purposes of IC 16-35-10, has the meaning set forth in**  
10 **IC 16-35-10-2.**

11       SECTION 3. IC 16-18-2-224.1 IS ADDED TO THE INDIANA  
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2017]: **Sec. 224.1. "Medically necessary", for**  
14 **purposes of IC 16-35-10, has the meaning set forth in**  
15 **IC 16-35-10-3.**

16       SECTION 4. IC 16-35-10 IS ADDED TO THE INDIANA CODE  
17 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2017]:

**Chapter 10. Consent for Gender Differentiation Procedure for an Intersex Child**

**Sec. 1.** As used in this chapter, "gender differentiation procedure" means any gender assignment surgery, genital surgery, or hormonal treatment.

**Sec. 2.** As used in this chapter, "intersex child" means an individual who is less than eighteen (18) years of age and who has:

(1) the reproductive organs or external sexual characteristics of both a male and a female; or

(2) sexual characteristics that are ambiguous.

**Sec. 3.** As used in this chapter, "medically necessary" means a health care service or treatment that:

(1) is needed to treat an injury, illness, disease, or condition affecting an intersex child's physical health;

(2) would likely adversely affect the intersex child's physical health if not provided; and

(3) maintains, to the extent possible, the sexual characteristics and structures of the intersex child.

**Sec. 4.** Except when medically necessary, a person, including a governmental entity, may not consent to allow a gender differentiation procedure for an intersex child if the child is:

(1) a child adjudicated to be a child in need of services under IC 31-34, including a child who is subject to dual status under IC 31-41-1;

(2) a child placed in the custody of the department of child services under IC 31-35-6-1;

(3) a child placed under the supervision of or in the custody of the department of child services by an order of the court;

(4) a child placed under the care of a person granted the wardship of the child; or

(5) a delinquent child as defined by IC 31-9-2-37(a).

**Sec. 5.** A juvenile court having jurisdiction over an intersex child described in section 4(1) through 4(5) of this chapter may allow the intersex child to provide consent for a gender differentiation procedure if:

(1) the intersex child has undergone an evaluation by:

(A) a psychologist; and

(B) a physician;

who are each experts in the treatment of intersex conditions;

(2) the intersex child has been provided full knowledge of the possible risks and benefits of the gender differentiation



1           **procedure; and**

2           **(3) the court believes that the intersex child has the maturity**  
3           **to provide informed consent.**

4           **Sec. 6. (a) The department of child services shall maintain a**  
5           **record of each intersex child described in section 4(1) through 4(5)**  
6           **of this chapter who has received a health care service or treatment**  
7           **that is medically necessary. The information must include**  
8           **information describing the child's medically necessary condition**  
9           **and the health care services and treatments that the child received.**  
10          **Except as provided in subsection (b), the information collected**  
11          **under this subsection is confidential.**

12          **(b) Before March 1 of each year, the department of child**  
13          **services shall submit to the legislative council a report containing**  
14          **the number of intersex children described in section 4(1) through**  
15          **4(5) of this chapter who received a health care service or treatment**  
16          **that is medically necessary. The report to the legislative council**  
17          **must be in an electronic format under IC 5-14-6.**

